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Marcel Hawiger, Staff Attorney

VIA EMAIL ONLY

May 30, 2014

Ehren Seybert
Jason Perkins
CPUC, Energy Division
Energy Division
505 Van Ness Avenue
San Francisco, CA 94102

RE: TURN Informal Comments on NEM 2.0

Dear Mr. Seybert and Mr. Perkins:

Pursuant to the Request for Informal Comments emailed on May 16, 2014, the Utility Reform Network (TURN) provides the following responses to the questions posed for informal stakeholder comments. TURN notes, however, that the questions ask for informal comments on a number of critical policy and factual issues that will go to the heart of future Commission action to develop a replacement tariff or contract for net energy metering. TURN hopes and expects that many of these same issues will be addressed in formal testimony and pleadings on the record in this proceeding. Indeed, TURN recommends that at this stage it would be more fruitful to hold informal workshops and comments to identify the potential "costs and benefits" of behind-the-meter systems. Energy Division has expressed its intent to contract with a consultant to create a "Public Tool" that would allow stakeholders to model the impacts of a future NEM 2.0. It would be extremely useful to discuss the functionality and outputs of this "Public Tool" prior to its final development.

1 Response Concerning Guiding Principles

1.1 Guiding Principles

Staff proposes seven guiding principles for a successor tariff. The first guiding principle is consistency with the legislative goals of AB 327, and staff summarizes these goals in a footnote. The staff proposal is putting the cart before the horse. The first four principles should be the *explicit goals mandated by the statute*.

AB 327 mandates at least four major policy objectives for the new net energy metering contract or tariff ("NEM 2.0"). These four principles themselves will require resolution of several complex issues – how to evaluate the "costs and benefits" of a small behind-the-meter solar system, how to ensure that customer-sited renewable DG continues to "grow sustainably," how to evaluate "total benefits" of the tariff, and how to devise specific alternatives for disadvantaged communities. Addressing just these enumerated legislative principles will require significant policy and quantitative analysis.

TURN thus recommends that the four key legislative goals be listed as the guiding principles for devising a successor tariff. We should spend our time figuring out how to evaluate and address these principles. Any other possible guiding principles can be proposed by parties if there is a need to compare different options that all meet the legislative goals. TURN is extremely concerned that focusing on "other guiding principles" as a first step will result in staff, stakeholders and the Commission getting distracted from evaluating the key issues necessary to devise a tariff or contract that meets the legislative goals. Indeed, that appears to be what is happening already.

The other proposed principles may be consistent with general regulatory principles, except for principle No. 4. This fourth principle proposes that the new NEM should encourage "innovation and growth among different technologies, applications, and financing structures." TURN recommends that this principle be eliminated, or at least changed reworded to state that NEM 2.0 should "not

discriminate" among different technologies. The language concerning "applications and financing structures" should be eliminated.

The intent language of §2827(a) identifies several Legislative goals. While a diverse resource mix is one of the enunciated goals, this goals reflects the legislative interest in distributed generation. There is no evidence of legislative intent to make NEM an "R&D" subsidy program for all different technologies, applications and "financing structures." There are separate statutory provisions addressing funding and support for research and development. There is a separate statutory provision providing for a different NEM for fuel cells, and there are statutory provisions providing incentives for different technologies pursuant to the Self-Generation Incentive Program and the California Solar Initiative. The NEM is a technology-neutral mechanism that provides an incentive for behind-the-meter "renewable energy" resources. There is nothing in the law to indicate that the Legislature intended to ensure growth of all technologies or 'financing' structures within the behind-the-meter DG sector.

1.2 Sustainable Growth

From an economics perspective, the term sustainable growth rate defines the rate of growth, based on cash flows and expected returns, that a firm can pursue without increasing financial leverage.[1] However, from an environmental perspective sustainable growth generally implies growth compatible with resource availability and without negative environmental consequences; or, growth that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Whichever definition of growth one adopts, the key point is that the modifier "sustainable" is a *limitation* on the concept of growth. Sustainable growth does not meet growth at all costs. It means growth that is economically and/or environmentally sustainable.

[1] See, for example, http://www.inc.com/encyclopedia/sustainable-growth.html

The Commission should interpret the phrase "grow sustainably" in the normal way of statutory interpretation. Since it is unlikely there is one single unambiguous "plain language meaning" of the term, the Commission should consider legislative intent and the statute as a whole. The Legislature envisioned a change in the present system, where utility customers pay customer-generators the full retail rate for all solar exported over the course of the year, in exchange for an unlimited amount of customer-generation eligible for a NEM credit. One obvious conclusion is that the Legislature did not intend the new NEM to be exactly like the old NEM, providing a full retail rate credit. Such a system is not sustainable. More likely, the term sustainable indicates the Legislature's intent to promote the distributed generation market, such that a single contract or tariff would pay all customer-generators a similar price for their generation based on consideration of all costs and benefits, even if such a price may result in an excess subsidy for some customer generators. The Legislature opted for a uniform "tariff or contract" rather than requiring a market bidding process to select only the lowest cost projects.

2 Program Elements

2.1 Clarification Regarding Program Elements

TURN has no additions to propose to the list of program elements.

2.2 Local Grid Adders

TURN suggests that this topic may be one of the key factual issues to examine in determining future compensation under NEM 2.0. It is a factual issue that requires expert testimony and hearings, as there are significant disputes concerning the nature of any potential grid benefits based on location and characteristics of a particular DG system.

TURN has generally been sympathetic to allocating certain avoided Transmission costs to DG projects; however, TURN cautions that benefits due to avoided T line losses or transmission access charges occur only if the DG system

(or combination of systems on a circuit) does not export so much power as to result in flow onto transmission lines, and actually does result in lower TAC. These are both factual issues.

The type and amount of Distribution grid benefits is complex to determine, and may turn out not to be worth the effort for behind-the-meter systems. TURN notes that in the past some parties have used general T&D adders (such as those contained in the E3 energy efficiency avoided cost calculator) to calculate alleged distribution level benefits. These data average system-wide impacts based on an analysis of load duration reductions due to energy efficiency measures. The data are inappropriate for considering the potential local grid impacts of distributed generation.

Even more importantly, as TURN has demonstrated in previous pleadings on this issue in R.10-05-004, most residential solar systems do not provide distribution-level economic benefits because their output is quite small by the time of the residential circuit peak. Residential systems paired with solar might be more useful, but *if and only if* the solar system is designed and operated to discharge during the circuit system peak for a significant number of days.

TURN notes that the utilities have developed maps to assist wholesale DG developers in properly siting projects. However, it is TURN's understanding that these maps are designed to steer projects to areas close to load so as to minimize the potential for distribution or transmission system upgrades in order to accommodate a generator. They are not meant to identify locations of expected distribution capacity investments. TURN does not presume that behind-the-meter generation has the same concerns regarding upgrade costs, unless there is a potential for extremely large on-peak exports.

2.3 Projects Greater Than 1 MW

Staff asks for possible definitions or metrics to determine 'significant impact' on the distribution system of projects greater than 1 MW, if the project is still sized

to meet onsite load *and* subject to reasonable interconnection charges under Rule 21.

The impact of a behind-the-meter generation system will depend on the maximum energy export and on the nature of the circuit, including surrounding load and circuit characteristics. In the wholesale context, the "metric" used to measure this impact is the estimate of upgrade costs based on a system impact study.

TURN has not participated in the recent Rule 21 revisions, so it has no comment at the moment on if and how interconnection charges under Rule 21 address potential impacts of a behind-the-meter DG system.

2.4 Alternatives for Disadvantaged Communities

TURN strongly objects to consideration of IREC's proposal. Using CARE rate discounts to fund solar projects violates the statutory purpose of the CARE program.

TURN will work closely with other low-income client advocates and environmental justice advocates to propose alternatives for promoting DG in disadvantaged communities. TURN supports continuation of the existing MASH VNM as a program that provides significant benefits to residents in low-income multi-family housing.

3 Additional Comments

TURN has two additional comments.

3.1 Workshops Concerning the Public Tool

The "tentative schedule" attached to the Request for Informal Comments envisions "potential workshop(s)" on the NEM Alternatives Public Tool Development. It is TURN's understanding that the Public Took would be the primary mechanism to evaluate the "total costs and benefits" of a generation

system for the customer-generator, other ratepayers, and the grid as a whole. But there has been very little discussion of the structure, capabilities, outputs and operating requirements of this Tool. It was not a formal topic at the April 23, 2014 workshop, although several parties raised questions about the Tool.

TURN thus strongly agrees that a workshop concerning the Public Tool functionalities and outputs would be extremely useful to preclude future concerns or complaints. TURN recommends that staff first issue a draft proposal describing the functionalities and outputs they expect from the Public Tool, to be followed by a workshop to discuss any suggestions for additional functionality or output.[2]

3.2 Consumer Protection and Disclosures Pursuant to § 2869

The Commission has a role and authority to enforce consumer disclosure rules pursuant to § 2869. Especially if NEM 2. 0 includes direct ratepayer incentives in the form of avoided interconnection fees, the Commission should enhance its role in protecting a potentially large pool of future consumers who buy or lease rooftop solar, or other DG systems.

To date, most parties have hailed leased systems as a mechanism for providing solar to more consumers "with no money down." As with most 'no money down' transactions, however, leased systems include a built-in interest rate. The Commission should consider requiring disclosure of the interest rate so as to facilitate customer decision-making regarding the proper financing method for a solar system.

Yours very truly,

/s/

[2] If at all possible, TURN requests that the workshop **not** be scheduled during the weeks of June 23 or June 30.

Marcel Hawiger, Staff Attorney

Cc: Service list for R.12-11-005